

FILED

AUG 10 2001

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

LEONARD GREEN, Clerk

In re: ARTHUR L. MAYS,

Movant.

O R D E R

NOT RECOMMENDED FOR FULL-TEXT
PUBLICATION

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Before: KRUPANSKY, SUHRHEINRICH, and SILER, Circuit Judges.

Arthur L. Mays moves this court for an order authorizing a second or successive habeas corpus petition pursuant to 28 U.S.C. § 2254. After the Antiterrorism and Effective Death Penalty Act of 1996, a state prisoner may not file a second or successive habeas petition unless the court of appeals issues an order in which it authorizes the district court to consider the petition. However, a habeas petition filed after a previous petition was dismissed for failure to exhaust state court remedies is not a “second or successive” petition that requires an order from this court authorizing the district court to consider the petition. *See In re: Wilson*, 142 F.3d 939, 940 (6th Cir. 1998); *Carlson v. Pitcher*, 137 F.3d 416, 418-20 (6th Cir. 1998). Here, Mays’s prior habeas petitions were dismissed for failure to exhaust state court remedies. Therefore, Mays does not need an order from this court authorizing the district court to consider the proposed habeas petition in this case.

No. 01-1205

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Accordingly, the motion for an order authorizing the district court to consider a second or successive habeas petition is denied as unnecessary.

ENTERED BY ORDER OF THE COURT

Leonard Green,
Clerk